

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
)
Amendment of Section 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Milano, Texas))
)
)
)

MB Docket No. 02-177
RM-10489

MAR 16 2007

MAR 20 2007

FCC

MEMORANDUM OPINION AND ORDER
(Proceeding Terminated)

Adopted: March 16, 2007

Released: March 20, 2007

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division has before it: (1) a Petition for Reconsideration of a *Report and Order*¹ in this proceeding filed by Roy E. Henderson (“Henderson”); (2) a Withdrawal of Petition for Reconsideration filed by Henderson; and (3) a Supplement to Withdrawal of Petition for Reconsideration. For the reasons discussed below, we will grant the requested withdrawal and dismiss the Petition for Reconsideration.

2. At the request of David P. Garland (“Garland”), a *Notice of Proposed Rule Making* proposed the allotment of Channel 274A at Milano, Texas, as a first local aural service.² In response to the *NPRM*, Henderson filed a counterproposal, proposing the upgrade and reallocation of his Station KLTR(FM) from Channel 297A, Caldwell, Texas, to Channel 297C3 at Bedias, Texas, pursuant to the provisions of Section 1.420(i) of the Commission’s rules.³ To accommodate the upgrade and reallocation, Henderson also proposed (1) the allotment of Channel 274A at Caldwell, Texas as a replacement service; and (2) the modification of the reference coordinates for vacant Channel 274A at Centerville, Texas. After the pleading cycle ended, Garland and Henderson filed a Joint Motion for Dismissal of the Garland Petition, Adoption of the Henderson Counterproposal, and Approval of Settlement Agreement.

3. The *R&O* approved the withdrawal of Garland’s rulemaking petition in compliance with Section 1.420(j) of the Commission’s Rules. However, the *R&O* dismissed Henderson’s counterproposal as technically defective because the allotment of Channel 274A at Caldwell would not provide the requisite coverage of the community of Caldwell with a 70 dBu signal as required by Section 73.315 of the Commission’s rules.

4. Henderson filed a Petition for Reconsideration of the *R&O*, contending that the staff erred in dismissing his counterproposal for lack of city-grade coverage. Thereafter, Henderson withdrew

¹ *Milano, Texas*, Report and Order, 19 FCC Rcd 8474 (MB 2004) (“*R&O*”).

² *Milano, Texas*, Notice of Proposed Rule Making, 17 FCC Rcd 12824 (MB 2002) (“*NPRM*”).

³ This rule permits the modification of a station’s authorization to specify a new community of license without affording other interested parties an opportunity to file competing expressions of interest.

his Petition for Reconsideration, stating that he simultaneously filed a counterproposal in MB Docket No. 06-66, proposing to upgrade and reallocate Station KLTR(FM) from Caldwell to Bedias. Henderson contends that approval of the withdrawal of the Petition for Reconsideration is consistent with Section 1.420(j) because he has not and will not receive any consideration for the withdrawal of the petition.⁴

5. We approve Henderson's withdrawal of his Petition for Reconsideration and find no reason for further consideration of the matters raised therein. The withdrawal of the Petition for Reconsideration complies with Section 1.420(j) because Henderson has documented that he has not and will not receive any consideration in exchange for the withdrawal of his petition.

6. Accordingly, IT IS ORDERED, That the Petition for Reconsideration filed by Roy E. Henderson IS DISMISSED.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Andrew J. Rhodes, Audio Division, Media Bureau (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau

⁴ This section provides that a party withdrawing an expression of interest in an FM allotment rulemaking proceeding may not receive money or other consideration in excess of legitimate and prudent expenses in exchange for the dismissal or withdrawal of the expression of interest.